

May 15, 2019

Bureau of Land Management
Colorado State Office
FOIA Coordinator
2850 Youngfield Street
Lakewood, Colorado 80215

Emailed to: CO_FOIA@blm.gov

RE: Freedom of Information Act Request for all agency records involving the Tres Rios Field Office (“TRFO”) Area of Critical Environmental Concern (“ACEC”) amendment to the TRFO Resource Management Plan.

Dear Colorado BLM FOIA Coordinator:

Under the Freedom of Information Act, 5 U.S.C. § 552, Rocky Mountain Wild requests copies of all records regarding the NEPA process, ESA compliance, external and internal communications, and any other agency analysis related to the TRFO ACEC amendment process.

Requested communications may include:

- The BLM and other federal, state or local agencies;
- The BLM and any members of the public;
- The BLM and any other external entity;
- Communications between and within the local and state BLM offices.

The reference to any entity includes any and all employees, contractors, partners, subsidiaries, parent corporations, board members, officers, managers, attorneys, agents, and any other person acting on the entity’s behalf. Responsive records may be maintained in various levels of the BLM’s organizational structure, including the Tres Rios Field Office, State and Regional Offices, and Washington D.C. Offices. When responding, please designate one point of agency contact so this FOIA can be fulfilled in a timely manner. Communications may include emails, letters, consultations, comments, meeting notes, phone call notes, or any record of such communications.

As Senior Staff Biologist at Rocky Mountain Wild, I am filing this request because it is important for our members and citizens in the region to understand how the BLM has analyzed ACEC designation for areas that will either support recovery or negatively impact the Federally listed Gunnison sage-grouse. The input from external agencies and entities will help us to determine the value of these proposed protected areas. This

information will assist our organization, our members, and the general public to better understand this process prior to making a final decision. As an organization focused on protecting wildlands for wildlife it is important for us to fully understand the impacts of this this proposed action.

Disclosure of the requested information is in the public interest because it is likely to contribute significantly to public understanding of the operations or activities of the government and efforts to conserve and support recovery of the Gunnison sage-grouse.

If you determine that portions of any records covered by this request are exempt from disclosure, please separate the exempt portions from the nonexempt portions and provide us with copies of the nonexempt portions. For any records that you determine to be exempt from release, please provide us with a specific description of the record or portion of the record along with a particularized description of the legal basis for withholding it. See *Vaughn v. Rosen*, 484 F.2d 820, 827 (D.C. Cir. 1973), cert. denied, 415 U.S. 977 (1974).

The information requested concerns BLMs management of federal public lands. FOIA provides that agency records shall be provided without charge "if disclosure of the information is in the public interest because it is likely to contribute significantly to public understanding of the operations or activities of the government and is not primarily in the commercial interest of the requester." 5 U.S.C. 552(a) (4) (A) (iii).

Release of the records described in this request will primarily benefit the public and substantially contribute to its understanding of the government's policies and activities concerning management of public lands, wildlife habitat, endangered species protections, as well as policies concerning environmental protection. Rocky Mountain Wild makes information concerning our work and endangered species protections on public lands available to its members and members of the public through its website, publications, public meetings, electronic and printed action alerts, press releases, phone calls, administrative appeals, and litigation, among other means. Through public comment, preparation of action alerts, press releases, public meetings, or other means, Rocky Mountain Wild will make the information obtained from this request available to its supporters and other groups.

If you deny all or any part of this request, please cite each specific exemption you think justifies your withholding of information. Notify me of appeal procedures available under the law.

Pursuant to 5 U.S.C. §552(a)(4)(A)(iii), Rocky Mountain is requesting a fee waiver for the records it is requesting. Rocky Mountain Wild is a non-profit membership organizations incorporated in the State of Colorado. Rocky Mountain advocates for the protection of wildlife, responsible management of public lands, and recovery of endangered species. Rocky Mountain Wild is committed to advocating for the Gunnison sage-grouse and protecting this species from threats. Rocky Mountain Wild and its supporters have a long standing interest in the management of wildlife habitat in

Colorado, including lands proposed for ACEC designation in the TRFO.

This fee waiver provision was adopted to facilitate access to agency records by citizen "watchdog" organizations such as Rocky Mountain Wild. *See*, *Better Gov't Ass'n v. Department of State*, 780 F.2d 86, 88-89 (D.C. Cir.1987). For this reason, Congress intended that the provision be liberally construed in favor of waivers for noncommercial requesters. *McClellan Ecological Seepage Situation v. Carlucci*, 835 F.2d 1282, 1284 (9th Cir. 1987).

If, for some reason, you should deny this request for a fee waiver, you should classify our organization as a representative of the news media, as that term is used in 5 USC § 552 (a)(4)(A)(ii)(II). Rocky Mountain Wild serves as an information clearinghouses for individuals, media outlets, and organizations seeking information on public land policies as they impact Colorado and the Gunnison sage-grouse. Information will be distributed through periodic bulletins, our web site, press events, slide shows and tabling at fairs and other public events. Therefore, our organizations are representatives of the news media. *See*, *National Security Archives v. US Department of Defense*, 880 F2d 1381, 1385 (D.C. Cir. 1989).

This request is submitted with the full expectation that such a waiver will be granted. However, if a decision is made to deny the fee waiver request that has regularly been provided to our organizations, please immediately inform the undersigned of the cost of disclosing the above-described records if fees exceed \$50.00 and we can discuss appropriate next steps. Rocky Mountain Wild is also happy to receive the requested records electronically to matt@rockymountainwild.org.

If you have any questions about handling this request, you may contact me by phone at (303) 704-9760 or by email at megan@rockymountainwild.org.

Sincerely,

A handwritten signature in black ink that reads "Megan Mueller". The signature is written in a cursive, flowing style.

Megan Mueller
Senior Conservation Biologist
Rocky Mountain Wild
1536 Wynkoop Street, Suite 900
Denver, CO 80202